



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/784,169 | 02/24/2004 | Gholam A. Peyman | 116161-003 | 8282 |
| 29180 | 7590 | 12/20/2005 | EXAMINER | |
| BELL, BOYD, & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135 | | | SHAY, DAVID M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3735 | |

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,169

Applicant(s)

PEYMAN

Examiner

david shay

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 7, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date September 7, 2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 11, 12, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindstrom.

Lindstrom teaches a method such as claimed, see Figures 2, 3, and 5 and col. 1, line 65 to col. 4, line 2 in order to place the lens as in Figure 3, first and second surfaces would be created, forming a flap.

Claims 1, 3, 8, 9, 19-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindstrom in combination with Bronstein and Steele et al. Lindstrom teaches a method such as claimed included the equivalence of outlays and inlays. Bronstein teaches securing implants in place using e.g. collagen glue. Steele et al teach employing e.g. collagen to promote tissue adhesion in corneal implants. It would have been obvious to the artisan of ordinary skill to cover the implant of Lindstrom with e.g. collagen since this will serve to secure it without sutures, as taught by Bronstein and will promote cell adhesion, as taught by Steele et al; to coat the second surface, since this is merely a matter of choice and provides no unexpected result; to coat the article before hand, since this would allow the compound to dry, is not critical and produces no unexpected result; and to form the coating from an amniotic membrane, since this is merely a matter of choice and provides no unexpected result, thus providing a method such as claimed.

Claims 7, 10 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindstrom in combination with Bronstein and Steele et al as applied to claims 1, 3, 8, 9, 19-26, 28, and 29 above, and further in combination with Kelman et al. Kelman et al teach cross-linking collagen using ultraviolet light. It would have been obvious to the artisan of ordinary skill to cross-link the collagen coating using ultraviolet light, since this would also cross link the coating to the collagen of the stroma, thus producing a method such as claimed.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindstrom in combination with Bronstein and Steele et al as applied to claims 1, 3, 8, 9, 19-26, 28, and 29 above, and further in combination with Peyman ('748). Peyman ('748) teaches forming intracorneal implants from organic or synthetic materials and the use of diffractive technology. It would have been obvious to the artisan of ordinary skill to employ the materials and diffractive technology of Peyman ('748) in the method of Lindstrom, since these materials are equivalent to the materials of Lindstrom and since the materials and technology are merely a matter of choice and provide no unexpected result, thus providing a method such as claimed.

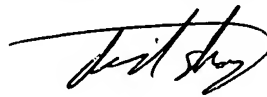
Claims 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindstrom in combination with Bronstein and Steele et al as applied to claims 1, 3, 8, 9, 19-26, 28, and 29 above, and further in view of Peyman ('185). Peyman ('185) teach the use of a combination of synthetic and organic material and ablating the inlay. It would have been obvious to the artisan of ordinary skill to form the inlay of the material of Peyman ('185) since these are equivalents, this is merely a matter of choice and provides no unexpected result, and to ablate the inlay, since this does not require the deviate is prefabricated, thus producing a method such as claimed.

Applicant's arguments filed August 26, 2005 have been fully considered but they are not persuasive. The arguments are not persuasive because Lindstrom teaches the placement of the implant at an area that intersects the optical axis, as the lens of Lindstrom is described as an optic (see e.g. column 2, lines 23-59).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam, can be reached on Monday, Tuesday, Wednesday, and Thursday at (571) 272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330